

### **REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the claimed subject matter.

By the present amendment, claims 1-11 remain in the application while claims 1, 2, 5, 6, 10, and 11 have been amended. Applicants respectfully request reconsideration and allowance.

#### ***Priority***

Applicants request acknowledgment of the priority claim and confirmation that the priority documents have been received. According to the MPEP § 1828, the International Bureau is to furnish copies of the certified priority document(s) to the designated offices. If the certified copies have not been forwarded to the designated office, the examiner may contact either the Special Program Examiner in their technology center, or contact Mike Neas at PCT-help desk (571-272-3289) for assistance in retrieving the certified copies.

#### ***Information Disclosure Statement***

It is acknowledged that the references JP 5-34732, JP 2002-33672, and JP 2003-23468 have not been considered by the examiner because no copy or English abstract has been provided. A new Information Disclosure Statement with a copy or English abstract of the cited references is submitted in the current amendment to comply with 37 CFR 1.98(a)(2).

#### ***Specification***

The abstract filled in July 13, 2006 has been amended to be limited to a single paragraph within the range of 50 to 150 words to comply with 37 CFR 1.72. Paragraph [0041] has been amended as well with the appropriate correction as required by the examiner. Thus, the objection as it applies to the specification is moot. No new matter is entered by the amendment.

### ***Claim Objections***

Claims 1-11 are objected to for informalities. Claims 1, 2, 5, 6, 10, and 11 have been amended accordingly per the examiner's comments, and thus, the objection as it applies to the claims is moot.

### ***Claim Rejections - 35 USC § 102***

Claims 1-3, 7, 8, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hara *et al.* (US 2006/0046666, hereinafter "Hara").

It is acknowledged in the Office action that the examiner says the prior art date of the Hara reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C 102(e)). However, the Hara reference was filed after November 29, 2000 (filed on Aug. 10, 2004), thus it cannot be applied for the pre-AIPA 35 U.S.C. 102(e) rejection. Moreover, as the international publication (WO 2005/036739) of the Hara reference was not published in English (it was published in Japanese) under PCT Article 21(2), its 35 U.S.C. 102(e) priority date does not exist.

Regarding 35 U.S.C. 102 (a) and 102 (b) rejections, the international filing date of this application (January 11, 2005) predates the international application's (WO 2005/036739)

publication date (April 21, 2005) as well. Therefore, both 35 U.S.C. 102 (a) and 102 (b) rejections cannot be applied based on the Hara reference. Also, the priority application (JP 2003-348243) of the Hara reference was published after the international filing date of this application, and is not applicable either.

Thus, it is respectfully requested that the claim rejections under 35 U.S.C. 102 be withdrawn.

### ***Claim Rejections - 35 USC § 103***

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara in view of Mattila *et al.* (US 5,432,473). Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara in view of Bengtsson *et al.* (US 2002/0071497).

As all 35 U.S.C. 103 rejections are relied upon the Hara reference which is not applicable under 35 U.S.C. 102 rejections, it is respectfully requested that the claim rejections under 35 U.S.C. 103 be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No.: NGB-40601.

Respectfully submitted,  
PEARNE & GORDON, LLP

Date: June 16, 2009

By: /michaelwgarvey/  
Michael W. Garvey, Reg. No. 35878

1801 East 9<sup>th</sup> Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700